

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

LOI TAN NGUYEN,

Plaintiff,

v.

NMT MEDICAL, INC.

Defendant.

Civil Action No. 04-CV-11781-DPW

**STATEMENT OF NMT MEDICAL, INC. IN PREPARATION FOR INITIAL
SCHEDULING CONFERENCE**

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure and Local Rule 16.1 of the Local Rules of the United States District Court for the District of Massachusetts, counsel for defendant NMT Medical, Inc. (“NMT”) certifies that it has attempted to confer with plaintiff Loi Tan Nguyen concerning the nature and basis of their claims and defenses, the possibility of a settlement of the case, preparing an agenda for matters to be discussed at the scheduling conference, and preparing a proposed pretrial schedule for the case including a plan for discovery, but has been unable to contact him.

I. PROPOSED PRETRIAL SCHEDULE

NMT anticipates that discovery may be conducted along the following schedule:

Deadline

Event

July 1, 2005

Complete automatic discovery consistent with Fed. R. Civ. P. 26(a)(1) and Local Rule 26.2(A).

July 15, 2005

File amendments to pleadings (including amendments to add parties), third-party actions, cross-claims and counterclaims. Together with the Complaint and Summons, counsel granted leave to add a party or third party shall serve on such party a copy of this Scheduling Order.

September 30, 2005	Completion of all discovery, other than requests for admissions and expert disclosures, except for such discovery not reasonably anticipated by the parties.
October 20, 2005	Service of requests for admissions.
November 11, 2005	Service of all responses to requests for admissions; Service of all expert disclosures, if any, pursuant to Fed. R. Civ. P. 26(a)(2).
December 1, 2005	Service of any responses and objections to expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2).
December 30, 2005	File any dispositive motions under Fed. R. Civ. P. 56, with all supporting documents.
January 20, 2006	File any oppositions to dispositive motions under Fed. R. Civ. P. 56, with supporting documents.
February 6, 2006	File all replies to oppositions to dispositive motions under Fed. R. Civ. P. 56, with supporting documents.
To be determined by the Court	A pretrial conference, if necessary following decision on dispositive motions, with all dates following such pretrial conference, including expert disclosure and discovery, to be scheduled at the Court's discretion.

B. Position on Phased Discovery. NMT does not believe it is necessary for discovery to proceed in phases.

C. Motion Schedule. NMT proposes that any dispositive motions under Fed. R. Civ. P. 56, together with all supporting documents shall be served no later than December 30, 2005. All oppositions with supporting documents shall be served no later than January 20, 2006. All replies to oppositions with supporting documents shall be served no later than February 6, 2006.

III. TRIAL BY MAGISTRATE JUDGE

NMT does not consent to referral of this matter for trial by a magistrate judge.

IV. ALTERNATIVE DISPUTE RESOLUTION

NMT has conferred with counsel to consider the resolution of the litigation through the use of alternative dispute resolution programs, such as mediation, arbitration and the alternative dispute resolution programs outlined in Local Rule 16.4. NMT has considered such alternative dispute resolution programs and agrees to resolve the dispute through the use of such an alternative dispute resolution program, provided that such program is administered by the Court.

V. CERTIFICATIONS UNDER LOCAL RULE 16.1(D)(3)

NMT's certification required by Local Rule 16.1(D)(3) will be submitted under separate cover.

Respectfully submitted,

NMT Medical, Inc.

By its attorneys,

/s/ Julie Murphy Clinton
Jessica A. Foster (BBO# 636841)
Julie Murphy Clinton (BBO# 655230)
Wilmer Cutler Pickering Hale and Dorr LLP
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Boston, MA 02109
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Dated: March 17, 2005

CERTIFICATE OF SERVICE

I, Julie Murphy Clinton, hereby certify that on March 17, 2005, I caused a copy of the foregoing document to be served, by first class mail, upon plaintiff Loi Tan Nguyen.

/s/ Julie Murphy Clinton